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**Date** May 8, 2023

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT FOR WATER MAIN RIGHT-OF-WAY IN A PORTION OF VACATED SE 2<sup>ND</sup> STREET RIGHT-OF-WAY ADJOINING 303 SCOTT AVENUE TO CITY OF DES MOINES, IOWA, FOR THE USE AND BENEFIT OF THE BOARD OF WATER WORKS TRUSTEES OF THE CITY OF DES MOINES, IOWA**

**WHEREAS**, on October 24, 2022, by Roll Call No. 22-1677, the City Council of the City of Des Moines, Iowa passed Ordinance No. 16,187 vacating all of the Southeast 2<sup>nd</sup> Street right-of-way lying south of Scott Avenue and west of and adjoining 303 Scott Avenue, and all of the Southeast 4<sup>th</sup> Street right-of-way lying south of Scott Avenue and east of and adjoining 303 Scott Avenue, Des Moines, Iowa, subject to the reservation of an easement upon the property described above for the continued use and maintenance of any utilities in place, with the right of entry for servicing same; and

**WHEREAS**, the Board of Water Works Trustees of the City of Des Moines, Iowa (hereinafter “Des Moines Water Works”) has requested a Permanent Easement for Water Main Right-of-Way under, over, through, and across a portion of the vacated Southeast 2<sup>nd</sup> Street right-of-way, as legally described below (“Easement Area”), for the purpose of constructing, reconstructing, repairing, enlarging, maintaining, accessing, and operating a water main, together with appurtenances thereto, both above and below ground, under, over, through and across the Easement Area; and

**WHEREAS**, there is no known current or future public need or benefit for the Easement proposed to be conveyed, and the City will not be inconvenienced by the conveyance of said Permanent Easement for Water Main Right-of-Way; and

**WHEREAS**, on April 24, 2023 by Roll Call No. 23-0585, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on May 8, 2023, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to convey the Easement was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of a Permanent Easement for Water Main Right-of-Way in the vacated City

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right-of-way south of Scott Avenue and west of and adjoining 303 Scott Avenue, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the Easement proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of said Permanent Easement for Water Main Right-of-Way, as legally described, to the City of Des Moines, Iowa, for the use and benefit of the Board of Water Works Trustees of the City of Des Moines, Iowa, subject to any and all easements, restrictions and covenants of record, and said conveyance is hereby approved:

ALL OF LOTS 13 AND 14, BLOCK 80, TOWN OF DES MOINE, AN OFFICIAL PLAT LYING WEST OF THE EXISTING WATER MAIN EASEMENT RECORDED IN BOOK 15347, PAGE 762-790 AT THE POLK COUNTY RECORDER'S OFFICE,

AND,

ALL OF THE VACATED SOUTHEAST 2<sup>ND</sup> STREET RIGHT-OF-WAY LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF SCOTT AVENUE, AND LYING NORTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 14, EXCEPT PARCEL 2022-1163, RECORDED IN BOOK 19315, PAGE 49 AT THE POLK COUNTY RECORDER'S OFFICE, ALL BEING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND CONTAINING 0.38 ACRES (16,639 S.F.);

(VACATED BY ORDINANCE NO. 16,187 PASSED OCTOBER 24, 2022).

3. The Mayor is authorized and directed to sign the Permanent Easement for Water Main Right-of-Way for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

4. The City Clerk is authorized and directed to forward the original of the Permanent Easement for Water Main Right-of-Way, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Water Main Right-of-Way, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Water Main Right-of-Way and copies of the other documents to the grantee.



**Roll Call Number**

**Agenda Item Number**

*39*

**Date** May 8, 2023

Moved by \_\_\_\_\_ to adopt. Second by \_\_\_\_\_.

APPROVED AS TO FORM:

*/s/ Mackenzie L. Moreno*

Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
<b>TOTAL</b>				

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

**CERTIFICATE**

I, Laura Baumgartner, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_  
Laura Baumgartner, City Clerk



**PROPERTY  
LOCATION**

